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09/943,242	08/30/2001	Wen Lin	00-LM-117	9379

7590
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05/08/2009

EXAMINER

BRAGDON, REGINALD GLENWOOD

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte: WEN LIN

Appeal No. 2007-3619
Application 09/943,242
Technology Center 2100

Mailed: [Date of mailing]

Before DALE M. SHAW, *Chief Appeals Administrator*

ORDER REMANDING TO EXAMINER

This application was electronically received by the Board of Patent Appeals and Interferences on June 28, 2007. Upon review of the application, it has been determined that a remand to Examiner, via the Office of the Director of the Technology Center, is necessary to consider the following issues and to take necessary corrective action.

EXAMINER'S ANSWER,
INCONSISTENCIES WITH THE BRIEF AND/OR
LAST REJECTION OF RECORD

A review of the file finds inconsistencies between the last rejection of record, and corresponding Grounds of Rejection sections in the Appeal Brief and the Examiner's Answer as set forth below.

Final Rejection

A review of the Final Rejection mailed on February 10, 2006, finds the following status of the claims: claims cancelled: 4, 6, 8, 9, 11, 13-16, 23-31, claims allowed: NONE, claims rejected: 1-3, 5, 7, 10, 12, 17-22, and 32, claims withdrawn: NONE.

In the last ground of rejection, claim 22 is rejected under 35 USC 103(a) as being unpatentable over Hunsakar (2003/0036198) in view of Yiu (2003/0181205).

A further review of the file finds that an amendment after final was filed on April 4, 2006, and the amendment was entered.

Appeal Brief

A review of the Appeal Brief filed on November 8, 2006, finds that claim 22 is rejected under 35 USC 103(a) as being unpatentable over Hunsakar (2003/0036198) in view of Yiu (2003/0181205).

Examiner's Answer

A review of the Examiner's Answer mailed on February 23, 2007, finds that the status of claims is different or unclear as compared to the last rejection of record.

Specifically, the rejection of claim 22 is not listed under the Grounds of Rejection and the Examiner does not withdraw this rejection.

EXAMINER'S ANSWER, EVIDENCE RELIED UPON

Section §1207.02 of the *Manual of Patent Examining Procedure* (MPEP) (Eighth Edition, Rev. 6, September 2007) states:

(A) CONTENT REQUIREMENTS FOR EXAMINER'S ANSWER. The examiner's answer is required to include, under appropriate headings, in the order indicated, the following items:

. . . .

- (8) Evidence Relied Upon. A listing of the evidence relied on (e.g., patents, publications, admitted prior art), and in the case of nonpatent references, the relevant page or pages.

The Examiner's Answer mailed February 23, 2007, is deficient because the "Evidence Relied Upon" section fails to include the reference Zaidi (6,601,126) cited on page 5 and page 9 in the Examiner's Answer's grounds of rejection of Claims 1, 12, and 20 under 35 USC § 102(e) and the rejection of claims 7, 10, and 32 under 35 USC § 103(a). Additionally, the

Appeal No. 2007-3619
Application No. 09/943,242

reference Yiu (2003/0181205), used to reject claim 22 under 35 U.S.C.

103(a) is missing from the “Evidence Relied Upon” section.

Appropriate correction is required.

CONCLUSION

Accordingly, it is

ORDERED that this application be returned to the Examiner to:

- 1) review the above inconsistencies to determine how to clarify the record;
- 2) vacate the Examiner’s Answer mailed on February 23, 2007, and
- 3) issue a corrected Examiner’s Answer to correct the Grounds of Rejection section and to correct other sections of the Answer as may be required;
- 4) include the necessary approval from the TC Director or designee in accordance with MPEP 1207.05, part (B) as may be required for any new grounds of rejection;
- 5) issue a PTO-90 citing the missing references listed under the Evidence Relied Upon section, paragraph (8) or include this correction in a corrected Examiner’s Answer; and
- 6) for such further action as may be appropriate.

If there are any questions pertaining to this Order, please contact the Board of Patent Appeals and Interferences at 571-272-9797.

Appeal No. 2007-3619
Application No. 09/943,242

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